

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

TRAFFIC INFORMATION, LLC

Plaintiff,

VS.

**BOK FINANCIAL CORPORATION,
BANK OF TEXAS, NATIONAL
ASSOCIATION, CAPITAL ONE
FINANCIAL CORPORATION, CAPITAL
ONE BANK (USA), NATIONAL
ASSOCIATION, GLYMPSE, INC.,
LAYAR, B.V., MOVE, INC.,
OPENTABLE, INC., POYNT
CORPORATION, REDFIN CORPORATION,
SCVNGR, INC., SMARTER AGENT, LLC,
and TRULIA, INC.**

Defendants.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Traffic Information, LLC (“Traffic”) brings this action against defendants BOK Financial Corporation (“BOKF”), Bank of Texas, National Association (“Bank of Texas”), Capital One Financial Corporation (“Capital One”), Capital One Bank (USA), National Association (“Capital One USA”), Glympse, Inc. (“Glympse”), Layar, B.V. (“Layar”), Move, Inc. (“Move”), OpenTable, Inc. (“OpenTable”), Poynt Corporation (“Poynt”), Redfin Corporation (“Redfin”), Scvngr, Inc. (“Scvngr”), Smarter Agent, LLC (“Smarter Agent”), and Trulia, Inc. (“Trulia”), and alleges:

THE PARTIES

1. Traffic is a limited liability company organized and existing under the laws of the State of Texas.

2. On information and belief, BOKF is a corporation organized and existing under the laws of Oklahoma, has a principal place of business at Bank of Oklahoma Tower, Tulsa, Oklahoma 74192, has designated its registered agent for purposes of service of process as Frederic Dorwart, 124 East 4th Street, Tulsa, Oklahoma 74103-5027, and is doing business in this judicial district.

3. On information and belief, Bank of Texas is a federally-chartered banking institution, a subsidiary of BOKF, has a principal place of business at 5956 Sherry Lane, Suite 1100, Dallas, Texas 75225, may be served by delivery on any of its executives or agents at its above-listed address, and is doing business in this judicial district.

4. On information and belief, Capital One is a corporation organized and existing under the laws of Delaware, has a principal place of business at 1680 Capital One Drive, Suite 1400, McLean, Virginia 22102-3407, has designated its registered agent for purposes of service of process as Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, and is doing business in this judicial district.

5. On information and belief, Capital One USA is a federally-chartered banking institution, a subsidiary of Capital One, has a principal place of business at 4851 Cox Road, Glen Allen, Virginia 23060, has designated its registered agent for purposes of service of process as Corporation Service Company, 11 South 12th Street, Richmond, Virginia 23218, and is doing business in this judicial district.

6. On information and belief, Glympse is a corporation organized and existing under the laws of Washington, has a principal place of business at 22421 NE 140th Way, Woodinville, Washington 98077, has designated its registered agent for purposes of service of process as National Registered Agents, Inc., 1780 Barnes Blvd. SW, Tumwater, Washington 98512-0410, and is doing business in this judicial district.

7. On information and belief, Laya is a corporation organized and existing under the laws of The Netherlands, has a principal place of business at Rietlandpark 301, 1019 DW, Amsterdam, The Netherlands, may be served by delivery on Claire Boonstra at Rietlandpark 301, 1019 DW, Amsterdam, The Netherlands, and is doing business in this judicial district.

8. On information and belief, Move is a corporation organized and existing under the laws of Delaware, has a principal place of business at 910 E. Hamilton Avenue, 6th Floor, Campbell, California 95008, has designated its registered agent for purposes of service of process as Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, and is doing business in this judicial district.

9. On information and belief, OpenTable is a corporation organized and existing under the laws of Delaware, has a principal place of business at 799 Market Street, Suite 400, San Francisco, California 94103, has designated its registered agent for purposes of service of process as The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, and is doing business in this judicial district.

10. On information and belief, Poynt is a corporation organized and existing under the laws of Canada, has a principal place of business at 700, 5940 Macleod Trail SW, Calgary, Alberta T2H 2G4, may be served by delivery on Andrew Osis at 700, 5940 Macleod Trail SW, Calgary, Alberta T2H 2G4, and is doing business in this judicial district.

11. On information and belief, Redfin is a corporation organized and existing under the laws of Delaware, has a principal place of business at 2025 1st Avenue, 6th Floor, Seattle, Washington 98121, has designated its registered agent for purposes of service of process as National Registered Agents, Inc., 2875 Michelle, Suite 100, Irvine, California 92606, and is doing business in this judicial district.

12. On information and belief, Scvngr is a corporation organized and existing under the laws of Delaware, has a principal place of business at 175 2nd Street, Cambridge, Massachusetts 02142, has designated its registered agent for purposes of service of process as Seth Priehatsch, 580 Harrison Avenue, Boston, Massachusetts 02118-2440, and is doing business in this judicial district.

13. On information and belief, Smarter Agent is a limited liability company organized and existing under the laws of Delaware, has a principal place of business at Waterfront Technology Center, 200 Federal Street, Suite 300, Camden, New Jersey 08103, has designated its registered agent for purposes of service of process as Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, and is doing business in this judicial district.

14. On information and belief, Trulia is a corporation organized and existing under the laws of Delaware, has a principal place of business at 116 New Montgomery Street, Suite 300, San Francisco, California 94105, has designated its registered agent for purposes of service of process as Pete Flint, 1426 Taylor Street, San Francisco, California 94133, and is doing business in this judicial district.

JURISDICTION AND VENUE

15. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

16. Subject-matter jurisdiction over Traffic's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

17. On information and belief, each defendant has solicited business in the State of Texas, transacted business within the State of Texas and attempted to derive financial benefit from residents of the State of Texas, including benefits directly related to the instant patent infringement cause of action set forth herein.

18. On information and belief, each defendant has placed its allegedly infringing products and services into the stream of commerce throughout the United States with the expectation that they will be used by consumers in this judicial district.

19. Each defendant is subject to personal jurisdiction in Texas and this judicial district, and is doing business in this judicial district.

20. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

INFRINGEMENT OF THE '862 PATENT

21. Traffic realleges and incorporates by reference the allegations in paragraphs 1-20.

22. On October 15, 2002, U.S. Patent No. 6,466,862 ("the '862 patent"), entitled "System For Providing Traffic Information" was duly and legally issued. A Reexamination Certificate for the '862 patent issued on June 7, 2011. A true and correct copy of the '862 patent with the Reexamination Certificate is attached hereto as Exhibit 1. Traffic is the owner by assignment of all right, title and interest in and to the '862 patent, including the right to sue for and recover all past, present and future damages for infringement of the '862 patent.

23. Each defendant, alone and in conjunction with others, has in the past and continues to infringe, contribute to infringement, and/or induce infringement of the '862 patent by making, using, selling, offering to sell and/or importing, and/or causing others to use, traffic information systems and products and services that alone or in combination with other devices are covered by at least one claim of the '862 patent, and is liable for infringement of the '862 patent pursuant to 35 U.S.C. § 271.

24. Each defendant's acts of infringement have caused damage to Traffic, and Traffic is entitled to recover from each defendant the damages sustained by Traffic as a result of each defendant's wrongful acts in an amount subject to proof at trial.

25. As a consequence of the infringement complained of herein, Traffic has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless each defendant is enjoined by this Court from committing further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Traffic prays for entry of judgment that:

- A.** Each defendant has each infringed the '862 patent;
- B.** Each defendant account for and pay to Traffic all damages caused by its infringement of the '862 as complained of herein in accordance with 35 U.S.C. § 284;
- C.** Traffic be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining each defendant, its officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;
- D.** Traffic be granted pre-judgment and post-judgment interest on the damages caused to it by reason of each defendant's patent infringement complained of herein;
- E.** Traffic be granted its reasonable attorneys' fees;
- F.** Costs be awarded to Traffic; and,
- G.** Traffic be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Traffic demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: September 13, 2011

By: 

C. Dale Quisenberry

State Bar No. 24005040

dquisenberry@pqelaw.com

John T. Polasek

State Bar. No. 16088590

tpolasek@pqelaw.com

Jeffrey S. David

State Bar No. 24053171

[jdavid@pqelaw.com](mailto:j david@pqelaw.com)

POLASEK, QUISENBERRY & ERRINGTON, L.L.P.

6750 West Loop South, Suite 920

Bellaire, Texas 77401

Telephone: (832) 778-6000

Facsimile: (832) 778-6010

S. Calvin Capshaw

State Bar No. 03783900

ccapshaw@capshawlaw.com

Elizabeth L. DeRieux

State Bar No. 05770585

ederieux@capshawlaw.com

CAPSHAW DERIEUX, L.L.P.

114 East Commerce Avenue

Gladewater, Texas 75647

Telephone: (903) 236-9800

Facsimile: (903) 236-8787

ATTORNEYS FOR PLAINTIFF